

PB 2018-02 EXEMPTION PROCEDURES

PCoP WEBINAR SERIES

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US Army Corps
of Engineers®



EXEMPTION PROCEDURES FOR STUDIES EXCEEDING COST AND SCHEDULE LIMITS



- Applicability and Purpose
- Study Costs
- Study Time Duration
- When should an Exemption Request Occur
- Process and Packaging
- Roles and Responsibilities
- Section 1001 Deauthorization Process
- Questions



APPLICABILITY AND PURPOSE



- WRRDA 2014 Sec.1001 Feasibility Reports
 - Completed in three years and maximum Federal cost of \$3 million
 - Secretary may extend the timeline over three years and/or approve Federal costs greater than \$3 million
- WRDA 2018 Sec. 1330 extended total study period not to exceed 10 years
- Applies to all feasibility studies which involve reformulation of alternatives and project justification via economics and/or environmental effect
- Applies to feasibility studies where the non-Federal sponsor provides contributed funds
- TO BUDGET FOR A FUTURE EXEMPTION - Notification to ASA(CW) Management and Budget and Project Planning and Review IS required

In FY12 the Corps established the 3X3X3 Rule and for management purposes continues to follow the established practice of study costs shared by the USACE and the non-Federal sponsor at \$3 million.



STUDY COSTS



- What are the costs limits?
 - **Cost Shared studies** - the calculation of total Federal study cost are those costs funded by Corps (\$1.5M) and the non-Federal sponsor (\$1.5M including in-kind services)
 - **Non-cost shared studies** - entirely federally funded or funding is provided by contributed funds, cost limit is \$3 million.
- What about.....
 - IEPR costs? Funded with study funds and are NOT included in the calculation of total study costs or the calculation of the Federal costs.
 - Audits and Study Coordination Team costs? Funded with study funds and are included in the calculation of total Federal costs.
- Recommend setting up separate work items for these activities.



STUDY COSTS



Approval Level

- *On cost shared studies, the DCG-CEO may approve study cost increases where the total study cost is between \$3 million and \$6 million (Federal costs are between \$1.5M and \$3M)
- ASA(CW) may approve study costs if total Federal cost will exceed \$3 million

Section 1001 WRRDA 2014 (33 U.S. Code §2282c) final feasibility reports and studies will have a maximum Federal cost of \$3 million**



STUDY COSTS



- Scenario 1 Timbuktu Feasibility Study team needs an addition \$1,000,000 above the cost shared limit of \$3 million to complete HTRW.

Does the team need an exemption request?

Is the exemption request approved at ASA(CW)?

- Scenario 2 Orchard City Feasibility Study is part of the supplemental work package (100% Federal funds). The team realized that they need \$50,000 to complete the Bio-Op above the appropriated \$3 million.

Does the team need an exemption request?

Is the exemption request approved at ASA(CW)?



STUDY COSTS



- Scenario 1 Timbuktu Feasibility Study team needs an addition \$1,000,000 above the cost shared limit of \$3 million to complete HTRW.

Does the team need an exemption request? **YES**

Is the exemption request approved at ASA(CW)? **NO**

- Scenario 2 Orchard City Feasibility Study is part of the supplemental work package (100% Federal funds). The team realized that they need \$50,000 to complete the Bio-Op above the appropriated \$3 million.

Does the team need an exemption request? **YES**

Is the exemption request approved at ASA(CW)? **YES**



STUDY TIME DURATION



The three year study limit is mandatory by law.

When does the clock start?

Starts at the signing of the feasibility cost share agreement and ends at the signing of the decision document or termination of the study

There is no mechanism to stop the clock once a FCSA is signed.

- Study delays where no work is being performed due to lack of insufficient funds
- Delays requested by the non-Federal sponsor

Only the ASA(CW) can approve exemptions that exceed the three year study limit.



STUDY TIME DURATION



- Scenario 1 Timbuktu Feasibility Study team needs an additional 8 months to complete HTRW.

Does the team need an exemption request?
Is the exemption request approved at ASA(CW)?

- Scenario 2 Orchard City Feasibility Study is part of the supplemental work package (100% Federal funds). The team realized that they need 39 months to complete the study.

Does the team need an exemption request?
Is the exemption request approved at ASA(CW)?



STUDY TIME DURATION



- Scenario 1 Timbuktu Feasibility Study team needs an additional 8 months to complete HTRW.

Does the team need an exemption request? **YES**

Is the exemption request approved at ASA(CW)? **YES**

- Scenario 2 Orchard City Feasibility Study is part of the supplemental work package (100% Federal funds). The team realized that they need 39 months to complete the study.

Does the team need an exemption request? **YES**

Is the exemption request approved at ASA(CW)? **YES**



WHEN SHOULD THE TEAM REQUEST AN EXEMPTION???



During study development, the team is working toward the next milestone.

- Use the risk register determine schedule and costs risks
- Keep open communication between team members

Your team realizes they will not meet the 36 month window and/or exceed the \$1.5 million Federal (on a cost shared study). How do you proceed?

- WHEN an exemption is identified, make the vertical team aware and begin to:
 - Lay out a plan that shows the new schedule and/or costs vs original schedule and costs
 - Clearly articulate COAs and risks for leadership to be able to make the decision

Team should look holistically at the schedule and costs changes so you only request one exemption.



WHEN SHOULD THE TEAM REQUEST AN EXEMPTION???



- The District Commander and the MSC Commander are signing up to any increased changes to the schedule or budget.
- In time to have the support documents required for Budget/Work Plan/ Reprogramming.
- Most requests will occur between TSP and ADM – Hold at a milestone meeting to minimize having an additional meeting.
- To ensure a decision can be made by ASA(CW), submit to HQ six months prior to the ending of the 36 month time frame.

Once a exemption request is made, delegated approval of the document is rescinded and the report is approved at HQ.



ROLES AND RESPONSIBILITIES



Table 1: Summary of Exemption Approval Authorities for Studies Initiated Post 10 June 2014

	<\$1.5M Federal**	\$1.5M - \$3M Federal**	>\$3M Federal
Up to 3 years	N/A	HQUSACE approval of study cost increase.	HQUSACE recommendation for ASA(CW) approval of cost exemption *
Over 3 years (Up to ten years total duration)	HQUSACE recommendation for ASA(CW) approval of schedule exemption *	HQUSACE approval of study cost is coordinated with ASA(CW); HQUSACE recommendation for ASA(CW) approval of schedule exemption *	HQUSACE recommendation for ASA(CW) approval of cost and schedule exemption *

* Congressional and non-Federal sponsor notification requirements apply.

** For non-cost shared, 100% Federally funded studies, refer to last column regarding approval for cost increases > \$3M federal.



PROCESS AND PACKAGING



Items required for exemption package

- PMP
- Report summary including:
 - Whether the project will use any innovative design or construction techniques;
 - Whether the project will require significant action by other Federal, State or local agencies;
 - Whether there is significant public dispute as to the nature or effects of the project; and
 - Whether there is significant public dispute as to the economic or environmental costs or benefits of the project.
- Risk Register
- Decision Log
- Decision Management Plan
- Briefing Slides to include:
 - Cause of exemption request,
 - Alternative considered to the extension requests
 - Risk and uncertainty and comparing cost and/or schedule changes
- Most recent Milestone Meeting Memorandum for Record



ROLES AND RESPONSIBILITIES



District

- Prepare exemption package
- District Commander will brief the Senior Leader Panel (Chief of Planning and Policy as well as other Senior Executives at HQ, MSC Director of Programs and ASA(CW)).

MSC

- MSC Commander or Chief of Planning must review and endorse request
- Submit to RIT for processing

RIT

- Process with a one week determination of comments/support by the Policy and Legal Review team
- Where applicable, prepare DCG-CEO exemption endorsement letter



ROLES AND RESPONSIBILITIES



HQ

- With panel concurrence, the DCG-CEO will endorse the exemption to the ASA(CW) and request the exemption

RIT

- Prepare draft notification to the Committees to include:
 - explain the factors and complexities affecting the study cost and/or schedule
 - outline the cause of the delay/cost increase
 - what efforts were undertaken to make up for the delay and reduce costs and
 - how much additional time and or funding is needed to complete the study .
- Log Exemption package for ASA(CW) review.

ASA(CW)

- Reviews and approves request

Once a exemption request is made, delegated approval of the document is rescinded and the report is approved at HQ.



SECTION 1001 DEAUTHORIZATION PROCESS



WRRDA 2014 Sec.1001 Deauthorization of Studies

- If a study is not completed within the time frames set out in PB 2018-02 including any approved study duration exemptions, the study will be terminated and the study specific authority is deauthorized.
- General authorities are not impacted (ex. Section 216, regional authorities, etc) but the feasibility study is terminated.

Questions?

Type questions in the chat box.
We will answer as many
as time allows.

This webinar will be posted to the
Planning Community Toolbox:
<http://www.corpsplanning.us>



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TERMINATION PROCESS



Termination Process and Package

- Final Report
- Public Notice
- Termination Package
 - District Termination memo
 - Endorsement from MSC of the final report
 - Letter from MFS
 - Cost Share Balance
 - Final Report
 - Documentation of Public Notice
- ASA(CW) Notification
- Project Closeout